



Pacific PEER

Public Employees for Environmental Responsibility

May 10, 2021

Regional Freedom of Information Officer
U.S. EPA, Region 9
75 Hawthorne Street (OPPA-2)
San Francisco, CA 94105

RE: FOIA REQUEST

Dear FOIA Officer:

Wayne Praskins of the U.S. Environmental Protection Agency (EPA, Region 9), wrote to the U.S. Navy in a letter dated August 20, 2020 and entitled “EPA Review of Navy Draft Evaluation of Radiological Remediation Goals for Onsite Buildings-Hunters Point Naval Shipyard Superfund Site” relating to EPA’s review of the protectiveness of the Navy’s remediation goals (RGs) for buildings and other structures (hereafter “building RGs”) for the Hunters Point Naval Shipyard (HPNS) Superfund site.

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests information concerning this letter and related subjects. Specifically, we request the following:

1. With respect to the above-referenced Praskins letter –
 - a) Any documents that support Mr. Praskins’ claims that no contamination could exist on surfaces inside any building higher than 6 feet on walls and none on ceilings:

“We determined that one of the assumptions built into the BPRG calculator may be overly conservative and inappropriate at HPNS. That is the assumption that fixed contamination is present on all six interior building surfaces (four walls, ceiling, and the floor).”
 - b) Any documents that support the statement: “Our preliminary calculations using the modified version of the BPRG calculator indicate that the majority of the radiological building RGs remain protective for fixed contamination.”

Please provide those calculations and all documents related thereto, including those that provide the identification of the Remediation Goals (RGs) that are not protective and the comparison of those values with the values the Navy has been using, as well as the comparison of the Region’s modified BRPGs against the RGs that the Region now asserts are protective.

- c) All documents that provide the basis for and/or relate to the statement:



Pacific PEER

Public Employees for Environmental Responsibility

“We propose that BPRGs be used as limits on the removable fraction of the radioactivity (i.e., dust). Our preliminary calculations using default exposure assumptions result in BPRGs substantially lower than 20% of the RGs.”

Please provide the BPRGs EPA was proposing for removable radioactivity and the comparison to the RGs the Navy has been using and all calculations and other documents related thereto.

2. Any other documents relating to the appropriateness of the model(s) used by the Navy (RESRAD BUILD, or RRB) and whether the EPA’s models (the Building Preliminary Remediation Goal calculator, or BPRG calculator, and the Building Dose Compliance Concentrations for Radionuclides calculator, or BDCC calculator) should be followed by the Navy at HPNS.
3. All documents related to any disagreement or dispute between the Navy and EPA regarding the Navy’s building RGs and whether the Navy should use the BPRG and/or BDC calculator. It should include but not be limited to –
 - a) All documents related to the Navy’s evaluation of the radiological building RGs described in a September 30, 2019 report titled Draft Estimated Excess Cancer Risks and Dose Equivalent Rates from Exposures to Radiological Contamination on Building Surfaces Report (“draft building addendum”).
 - b) The documents referenced by the EPA statement that the “Navy separately provided EPA with additional files presenting human health cancer risk estimates developed using EPA’s BPRGcalculator.”
4. All documents indicating whether EPA’s calculations using the BPRG and/or BDCC calculators modified the areas for soft and hard surfaces consistent with the decision memorialized in the Letter, September 21, 2018, from Lily Lee to Derek Robinson, "EPA Comments on the Draft Fourth Five-Year Review, Hunters Point Naval Shipyard, San Francisco, California, Dated July 9, 2018," pp. 4-5.
5. All communications between the Navy and EPA on the matters identified in the paragraphs above, including any relating to a possible disagreement or dispute.
6. To the extent not captured above, please provide all other documents in EPA’s possession about a possible disagreement or dispute with the Navy related to the building RGs and RRB vs. the BPRG and/or BDCC calculators.



Pacific PEER

Public Employees for Environmental Responsibility

Through this request, we are only seeking documents generated after our May 10, 2021, similar FOIA Request No. EPA-R9-2021-004219.

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of *Vaughn v. Rosen* (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

To the extent that EPA needs to perform a detailed review, PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a)(4)(A)):

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.

The FOIA request is, by its terms, limited to identifiable activities of EPA and its employees, contractors, or designees.

2. For the disclosure to be “likely to contribute” to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.

The documents would explain the basis for conclusions that the Navy has reached (with EPA concurrence) concerning the extent of remaining cleanup to be completed on HPNS structures and on what calculations those determinations are based. These documents would enable the public to understand how the Navy and EPA reached conclusions relating to this stage of a very prolonged, expensive, and controversial cleanup process.

Moreover, these documents would help the public see the extent to which additional remediation is required or, alternately, the potential extent of ongoing toxic exposure to community residents and on-site workers.

Further, these documents would allow the public to see how these two federal agencies resolve (or fail to resolve) disagreements about technical cleanup issues.

As these topics are the explicit focus of this request, the requested material is directly informative in relation to the request.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.

While the disclosure primarily affects the Hunters Point community, the information would enlighten the San Francisco Bay Area, as a whole. More broadly, the subject matter concerns one of the most egregious instances of environmental injustice afflicting a poor and minority community. The latter is a matter of national concern.



Pacific PEER

Public Employees for Environmental Responsibility

In addition, the information would shed light on the effectiveness of Superfund cleanup administration. EPA estimates that approximately 53 million people live within 3 miles of a Superfund remedial site; this is roughly 17% of the U.S. population, including 18% of all children in the U.S. under the age of five. Consequently, the public at large would be concerned about serious maladministration of Superfund.

In this regard, it is our understanding that the decisions made concerning these issues at HPNS may have application to many other radiologically contaminated structures within the custody of the Navy.

Further, the requested materials may impact spending decisions affecting hundreds of millions of taxpayer dollars not only at HPNS but other sites similarly situated.

Moreover, as the health of thousands of Hunters Point residents and on-site works may be at risk or adversely impacted, the public is concerned about instances of potentially major public health mortality.

Finally, the fact that the subject matter of this request and these documents are referenced on public websites maintained both by EPA and the Department of the Navy Base Realignment and Closure Program Management Office underlines the wide public interest in the topic.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on the PEER website which draws between 1,000 and 10,000 viewers per day; and
- Publication in the PEER newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

Through these methods, PEER generates an average of 1.5 mainstream news articles per day. Moreover, the existence of publicly maintained website by the U.S. Navy on HPNS and its cleanup denotes the broad public interest in the subject matter of this request.

4. The disclosure must contribute “significantly” to public understanding of government operations or activities.

The requested records would aid public understanding both of the HPNS cleanup and similar such cleanups of formerly used Defense sites across the country.

The key issue illustrated for public understanding is the process the Navy has used (and EPA has approved) to calculate RBAs. This calculation will directly affect the efficacy and completeness of the cleanup but also cause the potential additional expenditure of billions of dollars of public funds.



Pacific PEER

Public Employees for Environmental Responsibility

The records would also reveal the extent to which past Navy pronouncements about the status of certain portions of the site are accurate. In this regard, the nature of the information should shed direct light on the quality, openness, consistency, and integrity of EPA oversight of Superfund cleanups.

5. The extent to which disclosure will serve the requestor's commercial interest.

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

6. The extent to which the identified public interest in the disclosure outweighs the requestor's commercial interest.

As stated above, disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-PEER. I look forward to receiving the agency's final response within 20 working days.

Cordially,

Jeff Ruch
Pacific PEER Director